



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON 25, D. C.

IN REPLY PLEASE REFER TO

Honorable Lyndon B. Johnson

President of the Senate

Dear Mr. President:

We are submitting for the consideration of Congress proposed legislation to establish one general and equitable principle to be followed by all Federal agencies in restoring to their employees pay and other benefits of employment which are lost by reason of an unjustified or unwarranted personnel action subsequently corrected by appropriate authority. There are enclosed: (1) a draft bill; (2) a section analysis of the proposed bill; and (3) a statement of purpose and justification.

The proposed bill presents one comprehensive and uniform authority for back pay entitlement and computation to replace the three current authorities, because these authorities are neither comprehensive nor uniform in their application. Specifically the bill is intended to supersede the pay provisions of Public Law 80-623 and Public Law 81-733. In addition this bill provides a more specific legislative foundation for the Civil Service Commission's authority in this area now exercised under section 19 of the Veterans Preference Act.

In brief, the proposed bill enables appropriate authority following an administrative determination or timely appeal to pay an employee who has had his compensation terminated or reduced because of an unjustified or unwarranted personnel action the difference between what he earned and what he should have earned for the period. No entitlement is created, however, without a finding by appropriate authority that the action was indeed unjustified or unwarranted and a determination by such authority to take corrective action.

As amplified in the attached statement of purpose and justification, the proposed bill extends back pay protection to certain employees and situations not covered by present authorities. Significantly the proposed bill does not extend to any employee any rights of tenure, review, or appeal to which he is not otherwise entitled. It does require, however,

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that where an employee has a right to seek corrective action through administrative proceedings, and is successful in doing so, he will for pay, employment benefit, and other purposes be deemed to have rendered service at his proper grade during the period. Moreover the proposal would strengthen the powers of agencies in making equitable pay and benefit adjustments following the correction of unjustified or unwarranted personnel actions which they decide to correct on their own initiative.

Timely processing of appeals should minimize individual retroactive payments. The cases which would be covered should continue to be largely those which are already covered by one or the other of the present authorities covering back pay. While it is not anticipated that the additional costs involved would be great, however, the principle which this bill would establish is an important one. For this reason it is hoped that the Congress will be able to act favorably on this legislation during this session.

The Bureau of the Budget advises that from the standpoint of the Administration's program there would be no objection to the submission of this report.

By direction of the Commission

Sincerely yours,

Chairman

Enclosure #768